

# May PA DA PC DC PR MERGED

## Designation List Report



May, Kevin

2022-11-03



ID: V1M

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

### COURT EXHIBIT 14

Case No. 3:21-cv-03496-AMO

Date Entered                     

By                     

Deputy Clerk

## V1M - May PA DA PC DC PR MERGED

DESIGNATION	SOURCE	DURATION	ID
10:09 - 10:10	<b>May, Kevin 2022-11-03</b>	00:00:03	<b>V1M.1</b>
	10:09 Mr. May, can you hear me?		
	10:10 A. Yes, I can.		
10:16 - 10:20	<b>May, Kevin 2022-11-03</b>	00:00:10	<b>V1M.2</b>
	10:16 Q. Okay. Are you employed?		
	10:17 A. Yes.		
	10:18 Q. By whom?		
	10:19 A. I work for Restore Robotics and Restore		
	10:20 Robotics Repairs.		
11:03 - 11:15	<b>May, Kevin 2022-11-03</b>	00:00:49	<b>V1M.3</b>
	11:03 Q. What do you do as operations manager for		
	11:04 Restore Robotics Repairs?		
	11:05 A. I'm in charge of all the operations, all		
	11:06 the servicing of the devices, setting up the quality		
	11:07 system. I'm the management representative for		
	11:08 quality. Handle all -- all -- all the operations		
	11:09 for -- for the facility, everything that has to do		
	11:10 with service and -- and repair.		
	11:11 Q. You just mentioned that you had some		
	11:12 responsibilities for the -- the products; is that		
	11:13 the term you used?		
	11:14 A. Yes. Also product development and		
	11:15 research and dev- -- and development.		
11:16 - 11:20	<b>May, Kevin 2022-11-03</b>	00:00:17	<b>V1M.4</b>
	11:16 Q. Okay. Does Restore Robotics Repairs have		
	11:17 any products now?		
	11:18 A. Yes. We -- we have -- we have services		
	11:19 that we do. And we're buying and selling		
	11:20 EndoWrists.		
12:18 - 13:05	<b>May, Kevin 2022-11-03</b>	00:01:00	<b>V1M.5</b>
	12:18 Q. And are the services in Las Vegas provided		
	12:19 by employees of Restore Robotics Repairs or by		
	12:20 contractors or by somebody else?		
	12:21 A. By employees and -- I mean, sometimes we		
	12:22 would bring in contractors, but primarily, it's --		
	12:23 it's -- it's a small operation.		
	12:24 Q. And specifically, what services does		
	12:25 Restore Robotics Repairs provide to customers in Las		
	13:01 Vegas?		

## V1M - May PA DA PC DC PR MERGED

DESIGNATION	SOURCE	DURATION	ID
	13:02 A. We are buying and selling EndoWrist Si and		
	13:03 Xi. We provide a service that we're calling a		
	13:04 recovery program. And we're doing the R&D and		
	13:05 product development out of there as well, too.		
16:17 - 16:24	<b>May, Kevin 2022-11-03</b>	00:00:36	<b>V1M.6</b>
	16:17 Q. Does Restore Robotics Repairs have any		
	16:18 plans in the future to provide services to customers		
	16:19 beyond what is presently offered in Las Vegas?		
	16:20 A. Absolutely.		
	16:21 Q. And then what are those plans?		
	16:22 A. So we are going to be remanufacturing Si		
	16:23 EndoWrist devices. And we're going to be doing that		
	16:24 with -- in Arizona.		
38:02 - 38:20	<b>May, Kevin 2022-11-03</b>	00:01:07	<b>V1M.7</b>
	38:02 You have studied, have you not, the Xi		
	38:03 product of Intuitive Surgical?		
	38:04 A. Yes.		
	38:05 Q. Does the Xi have what you would call		
	38:06 'security keys'?		
	38:07 A. Yes.		
	38:08 Q. What is a security key?		
	38:09 A. Well, when -- when the instrument is		
	38:10 connected to the robot arm, they communicate		
	38:11 together, and they have security keys so it's a		
	38:12 secure connection. They use those keys so they can		
	38:13 open up and talk to each other.		
	38:14 Q. Mm-hmm.		
	38:15 Have you ever been involved in an effort		
	38:16 to penetrate the security keys in the Xi?		
	38:17 A. Yes.		
	38:18 Q. Did you have permission from Intuitive		
	38:19 Surgical to do that?		
	38:20 A. No.		
38:21 - 38:22	<b>May, Kevin 2022-11-03</b>	00:00:06	<b>V1M.8</b>
	38:21 Q. Did you do it secretly?		
	38:22 A. I'm not sure.		
38:24 - 39:03	<b>May, Kevin 2022-11-03</b>	00:00:12	<b>V1M.9</b>
	38:24 THE WITNESS: What you mean by 'secret'?		
	38:25 BY MR. RUBY:		

## V1M - May PA DA PC DC PR MERGED

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	39:01 Q. Well, when you were trying to penetrate		
	39:02 the security keys for the Si -- Xi, excuse me, did		
	39:03 you want anybody to know you were doing that?		
39:05 - 39:19	<b>May, Kevin 2022-11-03</b>	00:00:52	<b>V1M.10</b>
	39:05 THE WITNESS: Well, as a business, you		
	39:06 don't discuss with anybody what your R&D efforts		
	39:07 are.		
	39:08 BY MR. RUBY:		
	39:09 Q. Is that a 'no,' you didn't want anybody to		
	39:10 know?		
	39:11 A. That's common practice, correct. We		
	39:12 don't -- we don't discuss our R&D projects with		
	39:13 anybody that's not directly related.		
	39:14 Q. Well, why was penetrating the security		
	39:15 keys on the Xi a matter of a business practice for		
	39:16 Restore Robotics Repairs?		
	39:17 A. In the process to be able to duplicate the		
	39:18 usage counter, those are some of the steps you have		
	39:19 to go through.		
39:20 - 40:01	<b>May, Kevin 2022-11-03</b>	00:00:20	<b>V1M.11</b>
	39:20 Q. What -- what is -- strike that.		
	39:21 Does the term 'reverse engineering' have a		
	39:22 meaning to you?		
	39:23 A. Yes.		
	39:24 Q. What -- what do you think it means?		
	39:25 A. You take something that's substantially		
	40:01 equivalent, and then you duplicate it.		
40:02 - 40:04	<b>May, Kevin 2022-11-03</b>	00:00:10	<b>V1M.12</b>
	40:02 Q. And have you undertaken any reverse		
	40:03 engineering on the Xi?		
	40:04 A. Yes, we have.		
40:05 - 40:08	<b>May, Kevin 2022-11-03</b>	00:00:13	<b>V1M.13</b>
	40:05 Q. Why -- why did you do that?		
	40:06 A. Because we are -- want to be able to reset		
	40:07 the usage counter and remanufacture the devices and		
	40:08 repair them as well.		
40:11 - 40:20	<b>May, Kevin 2022-11-03</b>	00:00:27	<b>V1M.14</b>
	40:11 Did Restore Robotics Repairs ever hire		
	40:12 anyone to undertake what you call reverse		

## V1M - May PA DA PC DC PR MERGED

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	40:13 engineering on the Xi?		
	40:14 A. Yes.		
	40:15 Q. Who did you hire?		
	40:16 A. Marcus Engineering.		
	40:17 Q. Mm-hmm.		
	40:18 And were they successful?		
	40:19 A. They have been successful in many of the		
	40:20 aspects. Yes.		
60:09 - 60:13	<b>May, Kevin 2022-11-03</b>	00:00:25	<b>V1M.18</b>
	60:09 Does Restore Robotics Repairs presently		
	60:10 have a plan for when it intends to begin changing		
	60:11 the usage limitations as part of what you've		
	60:12 described as a repair for Xis?		
	60:13 A. In 2023.		
60:15 - 60:18	<b>May, Kevin 2022-11-03</b>	00:00:15	<b>V1M.19</b>
	60:15 Does Restore Robotics Repairs presently		
	60:16 have the technical capability of changing the usage		
	60:17 limitations on EndoWrists for Xis?		
	60:18 A. We do not.		
60:19 - 60:25	<b>May, Kevin 2022-11-03</b>	00:00:26	<b>V1M.20</b>
	60:19 Q. And do you expect to have that technical		
	60:20 capability sometime in 2023?		
	60:21 A. Yes.		
	60:22 Q. When in 2023 in your plan will you have		
	60:23 that technical capability?		
	60:24 A. We anticipate between, like, the third and		
	60:25 fourth quarter, 2023.		
72:09 - 72:09	<b>May, Kevin 2022-11-03</b>	00:00:04	<b>V1M.22</b>
	72:09 Q. And has -- since February 20th, 2020, (edited)		
72:10 - 72:17	<b>May, Kevin 2022-11-03</b>	00:00:36	<b>V1M.39</b>
	72:10 has any entity related to (edited)		
	72:11 Restore reset the use counter for an EndoWrist that		
	72:12 it does not own?		
	72:13 A. No, we have not. I believe we've stopped.		
	72:14 Intuitive had stopped us from repairing anything by		
	72:15 keeping us out of the market. So I believe we --		
	72:16 we'd lost most of our customers by November --		
	72:17 October/November of 2019.		
72:18 - 72:21	<b>May, Kevin 2022-11-03</b>	00:00:09	<b>V1M.23</b>

## V1M - May PA DA PC DC PR MERGED

DESIGNATION	SOURCE	DURATION	ID
	72:18 Q. Have you ever talked directly to Intuitive		V1M.23
	72:19 about the resetting activities that Restore has		
	72:20 engaged in?		
	72:21 A. No.		
75:17 - 75:18	<b>May, Kevin 2022-11-03</b>	00:00:04	<b>V1M.24</b>
	75:17 Did that harm cause any delay to Restore's		
	75:18 business?		
75:20 - 76:01	<b>May, Kevin 2022-11-03</b>	00:00:32	<b>V1M.25</b>
	75:20 THE WITNESS: Well, it absolutely caused		
	75:21 delays and harm to our business. We had been		
	75:22 counting on the revenues that we were generating		
	75:23 from the repair business to fund being able to do		
	75:24 additional R&D efforts, to grow the business, and to		
	75:25 grow the Xi business and to do the research and		
	76:01 development for the Xi.		
97:04 - 97:08	<b>May, Kevin 2022-11-03</b>	00:00:12	<b>V1M.31</b>
	97:04 BY MR. MAIDA:		
	97:05 Q. How confident can you -- are you that		
	97:06 Restore will be able to develop the technology to		
	97:07 repair X- and Xi-compatible EndoWrists?		
	97:08 A. Extremely high.		
112:19 - 112:22	<b>May, Kevin 2022-11-03</b>	00:00:11	<b>V1M.32</b>
	112:19 Q. Based on your 20 years of experience in		
	112:20 the industry, do you believe that repairing		
	112:21 EndoWrists and resetting the counter puts patients		
	112:22 at risk?		
112:24 - 113:05	<b>May, Kevin 2022-11-03</b>	00:00:22	<b>V1M.33</b>
	112:24 THE WITNESS: The risk is no more than the		
	112:25 original manufacture. The risk is the same as the		
	113:01 original device. We are not adding any additional		
	113:02 risk to it, and we've gone to great lengths to --		
	113:03 through our testing to demonstrate that it does not		
	113:04 provide any additional risk than the original		
	113:05 device.		
115:03 - 116:05	<b>May, Kevin 2022-11-03</b>	00:01:33	<b>V1M.35</b>
	115:03 THE WITNESS: 33 years.		
	115:04 BY MR. McCAULLEY:		
	115:05 Q. I'm sorry.		
	115:06 A. But no, it is -- it is the simplest device		

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DESIGNATION	SOURCE	DURATION	ID
	115:07 we've ever serviced or repaired.		
	115:08 Q. Can you give me some examples of more		
	115:09 complicated devices that you service or repair?		
	115:10 A. Yes. Rigid and flexible endoscopes are		
	115:11 significantly more difficult. The -- the optical		
	115:12 properties and the optical alignment and the -- the		
	115:13 characteristics of a rigid endoscope are more		
	115:14 complex than this EndoWrist device.		
	115:15 And then the flexible scope business, as		
	115:16 you guys know at -- at SIS, is an extremely		
	115:17 complicated device. It has an integrated camera		
	115:18 system, integrated with a lumens and working		
	115:19 channels and fiberoptic illumination, and very		
	115:20 delicate and intricate articulation.		
	115:21 And then the lengths are considerable on		
	115:22 those. They're -- they're up to 6 to 7-foot long.		
	115:23 They have electronic components that carry a signal		
	115:24 back from the camera all the way from the distal tip		
	115:25 that's inside the patient, all the way back to a		
	116:01 monitor and a camera control unit that's at bedside		
	116:02 near the patient.		
	116:03 Flexible scopes are significantly more		
	116:04 complicated and integrated, and they have much more		
	116:05 involved articulation properties in them.		
117:08 - 118:08	<b>May, Kevin 2022-11-03</b>	00:01:59	<b>V1M.36</b>
	117:08 When did Restore Robotics Repair		
	117:09 [verbatim] begin developing -- begin trying to		
	117:10 develop a circumvention of the use counter for the		
	117:11 Xi instruments?		
	117:12 A. I would say around January 2020. We		
	117:13 actually made positive efforts in -- in -- in		
	117:14 tackling that issue. Prior to that, there was much		
	117:15 discussion about getting into that business. But		
	117:16 there was a lot of concern because it -- it requires		
	117:17 a -- a lot of money and resources and time. And we		
	117:18 were being stopped by Intuitive.		
	117:19 And so, there was hesitation to be able to		
	117:20 do that because even if we were successful in that		
	117:21 endeavor, Intuitive would have stopped us by their		
	117:22 tied contracts and their cease and desist letters.		

8 / 10



9 / 10

V1M - May PA DA PC DC PR MERGED

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